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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,815	12/06/2000	Daniel Newman	2717.100	9252
5514	7590	07/03/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				HEWITT II, CALVIN L
ART UNIT		PAPER NUMBER		
		3621		

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/729,815	NEWMAN, DANIEL
	Examiner	Art Unit
	Calvin L. Hewitt II	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 March 2006.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-54, 56-59, 61 and 66-75 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-54, 56-59, 61 and 66-75 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

Status of Claims

1. Claims 1-54, 56-59, 61 and 66-75 have been examined.

Response to Amendments

2. Applicant's claims recite limitations using conditional or optional language.

For example, claim 1, recites "when the fee for the selected content is less than the predetermined amount...", while claim 3 recites "if it is determined that the fee for the additional contents does not exceed...". The MPEP states,

Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP 2106, II, C).

Therefore, in order for the prior art to effectively read on the optional or conditional language the prior art need only teach, for example, fees that exceed a predetermined amount.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-59, 61 and 63-75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. Claims 3, 33, 61, 66 and 74, are directed to a device for inputting user defined parameters where the parameters "are not used to perform a search for content". Claims 69, 70 and 75 are directed to computer code stored on a computer readable medium for controlling a device. However, it is not clear to one of ordinary skill how Applicant's system can prevent a user from entering user defined parameters and then using the same parameters to query a database.

Claims 4, 34-57, 59, 67, and 73 are also rejected as each depends from either claim 3, 33, 58, or 66.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-24, 27-37, 39-44, 46-53, 57-59, 61, and 66-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al., U.S. Patent No. 5,892,900

As per claims 1-20, 22-24, 27-44, 46-52, 57-59, 61, and 66-75, Ginter et al. teach a method and system for receiving fee-based content over the internet (figure 84) comprising:

- setting and storing user-defined parameters at a user appliance specified by the user to accept all fees below a pre-determined amount, the amount defining a threshold for determining whether an individual fee should be accepted without regard to a cumulative total of the fees and wherein the parameters are not used to search for content (figures 72 B and C, column/line 263/54-264/16)
- the user appliance receiving a selection of content from any content provider (figures 72A-D and 84) comparing the fee for the selected content to the predetermined amount and displaying the selected content when the fee is less than the predetermined amount (column 9, lines 19-24; column/line 263/54-264/16)
- prompting a user for acceptance of a fee when the fee for selected content exceeds the predetermined amount (column 264, lines 5-16)

- integrating the at least one predefined user preference on a browser application (figures 72A-D; column 263, lines 37-48; column 264, lines 4-16 and 27-42)
- user defined parameters that pre-authorizes (e.g. a signal such as allowing users to access content without prompting the user) payment for a quantity of fees within a particular time period, for individual fees that do not exceed a threshold, for accumulated fees that do not exceed a threshold, rejects content that exceeds a predetermined or accumulated amount (column 263, lines 38-61; column 264, lines 12-16)
- collecting content from a plurality of content providers as a function of HTML (figures 72A-D and 79-84)
- inputting a user defined password prior to requesting content over a network (figure 72A)
- obtaining a first portion without a fee (column 263, lines 25-38), determining whether a second portion is desired (figures 72A-D; column 263, lines 25-38) wherein acceptance is based on user defined parameters (column/line 263/54-264/16)
- paying royalties (column 281, lines 20-44)

- applying different user parameters for different content (column 291, lines 5-28)

Regarding third party providers (e.g. credit card company, financial institutions) and accumulating a plurality of fees, Ginter et al. disclose a user paying for content using a credit or debit card (e.g. VISA) (column/line 290/60-291/16), hence Ginter et al. discloses third party providers that accumulate fees, a user making payments and overpayments (e.g. claims 28 and 48) to a third party provider, individual and accumulated fee thresholds, and said provider accumulating user charges, verifying fees, billing a user, storing user account and paying a content provider on behalf of a user. Ginter et al. teach using electronic currency for obtaining content (column 41, lines 15-20). Therefore Ginter et al. teach paying fees to a content provider in a first currency and to a third party provider (e.g. another user) in a second. Ginter et al. also teach programmable smart objects that search remote computer systems for specific content based on user search parameters (column 264, lines 52-57; column 265, lines 20-38; column 266, lines 22-38). Specifically, Ginter et al. teach software objects governed by "at least one rule and/or control associated with the software agent that governs the agent's operation". Hence, an obvious application of Ginter et al. is for creating a software object that only retrieves content from TimeWarner intellectual property sites (figure 72D) and apply budget constraints

such as a spending maximum of 15 US dollars (column 266, lines 27-39). Ginter et al. also teach limiting a child's VISA budget to video game related content while not limiting the child's access to encyclopedia content (column 291, lines 6-29). Regarding fees that exceed a predetermined amount, messages from third party providers to users indicating "insufficient funds" or "overdrawn" are old and well-known, hence it would have been obvious to inform a user if he/she lacks the credit to obtain desired content.

As per claim 21, it is well-known that companies such as Comcast, Verizon, Bell South, MSN and AOL charge fees for accessing the internet. Therefore, "internet access" is "at least some of the fees" that a user accumulates for making purchases online (see also Ginter et al., column 266, lines 33-35).

As per claim 53, in order to connect to the internet a content company pays a fee to an internet service provider such as Verizon, Comcast or Bell South, hence a credit card company [payment appliance for authorizing transactions over the internet] is associated with an ISP.

8. Claims 25, 26, 54, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al., U.S. Patent No. 5,892,900 in view of Daly et al., U.S. Patent No. 5,878,141.

As per claims 25, 26, 54 and 56, Ginter et al. teach a user customizing a credit card (e.g. VISA) for making purchases over the internet (column 263, lines 54-61; column 267, lines 3-5; column/line 290/32-291/30). However, Ginter et al. do not specifically teach customizing use of a credit card at a remote third party site. Daly et al. teach a user accessing a third party provider terminal for establishing and storing user preferences associated with customizing the use of a credit card (figures 1 and 5; column 6, lines 3-36; column 17, lines 17-47). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Ginter et al. and Daly et al. in order to provide a user with broader access to payment options without burdening a user appliance and the user with the responsibility of storing and securing multiple budget information on the appliance ('141, column 6, lines 3-36; '900, column/line 290/32-291/32).

9. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al., U.S. Patent No., 5,892,900 in view of Langhans et al., U.S. Patent No. 5,500,513.

As per claim 38, Ginter et al. teach a user establishing spending limits (column/line 263/48-264/15). However, Ginter et al. do not explicitly recite accepting a preselected number of fees. Langhans et al. teach a system for controlling credit card purchases based on spending parameters (abstract; figures 5-7, 10 and 11; column/line 14/55-16/16) such as the number of charges

over a preselected period of time (column 11, lines 35-63; column 13, lines 25-46). Langhans et al. also teach overrides (column 9, lines 15-21). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Ginter et al. and Langhans et al. in order provide improved fraud detection ('513, column 1, lines 47-6)

10. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al., U.S. Patent No. 5,892,900 in view of Casement et al., U.S. Patent No. 5,969,748.

As per claim 45, Ginter et al. teach spending limits for obtaining content (column/line 263/54-264/16). However, Ginter et al. do not specifically recite a password for obtaining content that exceeds a spending limit. Casement et al. also recite prompting a user for acceptance of charges that exceed the predetermined spending limit (figure 5; column 5, lines 40-51) and limiting access to predetermined content providers and restricting access to content based on content type (figures 2C-E). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Ginter et al. and Casement et al. in order to provide a user with more control and choices over how he/she is to use his/her a budget. For example, a family can share a single wallet or account and spending controls can be applied to the children while more responsible

members (i.e. parents) are able to use the card more freely ('900, column/line 290/60-291/16; '748, figure 5; column 5, lines 40-51).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (571) 272-6712.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
c/o Technology Center 3600
Washington, D.C. 20231

or faxed to:

(571) 273-8300 (for formal communications intended for entry and after-final communications),

or:

(571) 273-6709 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free).
Calvin Lloyd Hewitt II
Primary Examiner

June 19, 2006